

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

---

USCA Docket Number:

USDC Docket Number : 04-cv-10421

ITV Direct, Inc.,

v.

Healthy Solutions, LLC, et

---

**CLERK'S CERTIFICATE**

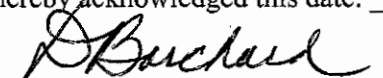
I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 8/29/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on September 1, 2005.

Sarah A. Thornton, Clerk of Court

By:   
Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 9/1/05.

  
Deputy Clerk, US Court of Appeals

---

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: \_\_\_\_\_

APPEAL, CONSOLIDATED, LEAD

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:04-cv-10421-JLT**

ITV Direct, Inc. v. Healthy Solutions, LLC et al Date Filed: 03/02/2004  
Assigned to: Judge Joseph L. Tauro Jury Demand: Defendant  
Cause: 28:1332 Diversity-Other Contract Nature of Suit: 190 Contract:  
Other  
Jurisdiction: Diversity

**Consolidated Plaintiff**

**Healthy Solutions, LLC**  
*A California Limited Liability  
Corporation  
doing business as  
Direct Business Concepts*

represented by **Becky V. Christensen**  
O'Connor Christensen &  
McLaughlin LLP  
1920 Main Street  
Suite 150  
Irvine, CA 92614  
949-851-5000  
Fax: 949-851-5051  
Email: [bvc@ocmiplaw.com](mailto:bvc@ocmiplaw.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE**  
**NOTICED**

**Craig McLaughlin**  
O'Connor Christensen &  
McLaughlin LLP  
1920 Main Street  
Suite 150  
Irvine, CA 92614  
949-851-5000  
Fax: 949-851-5051  
Email: [cml@ocmiplaw.com](mailto:cml@ocmiplaw.com)  
**LEAD ATTORNEY**

*ATTORNEY TO BE  
NOTICED*

**William E. Levin**  
Levin & Hawes  
384 Forest Avenue  
Suite 13  
Laguna Beach, CA 92651  
949-497-7676

*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**Consolidated Plaintiff**

**Health Solutions, Inc.**  
*A California Corporation*

represented by **Becky V. Christensen**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**Craig McLaughlin**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**William E. Levin**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**Consolidated Plaintiff**

**Alejandro Guerrero**

represented by **Becky V. Christensen**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**Craig McLaughlin**

(See above for address)

*LEAD ATTORNEY*

*ATTORNEY TO BE*

*NOTICED*

**William E. Levin**

(See above for address)

*LEAD ATTORNEY*

*ATTORNEY TO BE*

*NOTICED*

**Intervenor Plaintiff**

**Cappseals, Inc.**

represented by **Daniel J. Kelly**

Gadsby & Hannah LLP

225 Franklin street

Boston, MA 02110

617-345-7026

Fax: 617-204-8026

Email: dkelly@ghlaw.com

*LEAD ATTORNEY*

*ATTORNEY TO BE*

*NOTICED*

**Scott A. Silverman**

Gadsby & Hannah LLP

225 Franklin street

Boston, MA 02110

617-345-7077

Fax: 617-204-8077

Email:

ssilverman@ghlaw.com

*ATTORNEY TO BE*

*NOTICED*

**Kristin Cataldo**

Gadsby & Hannah LLP

225 Franklin street  
Boston, MA 02110  
617-345-7046  
Fax: 617-204-8046  
Email: Kcataldo@ghlaw.com  
*ATTORNEY TO BE  
NOTICED*

**Plaintiff**

**ITV Direct, Inc.**

represented by **Christian H. Pedersen**  
Metaxas Norman, & Pidgeon  
LLP  
900 Cummings Center  
Suite 207T  
Beverly, MA 01915  
978-927-8000  
Fax: 978-922-6464  
Email:  
cpedersen@mnplaw.com  
*TERMINATED: 07/01/2004  
LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**Christopher F. Robertson**  
Seyfarth Shaw, LLP  
World Trade Center East  
Two Seaport Lane  
Suite 300  
Boston, MA 02210  
617-946-4800  
Email:  
crobertson@seyfarth.com  
*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**Katherine E. Perrelli**

Seyfarth Shaw  
World Trade Center East  
Two Seaport Lane  
Suite 300  
Boston, MA 02210-2028  
617-946-4817  
Fax: 617-946-4801  
Email:  
kperrelli@seyfarth.com  
*TERMINATED: 07/14/2004*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Peter S. Brooks**  
Seyfarth Shaw, LLP  
Two Seaport Lane, Ste. 300  
Boston, MA 02210-2028  
617-946-4991  
Fax: 617-946-4801  
Email:  
pbrooks@seyfarth.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Susan W. Gelwick**  
Seyfarth Shaw, LLP  
World Trade Center East  
Two Seaport Lane  
Boston, MA 02210-2028  
617-946-4800  
Fax: 617-946-4801  
Email:  
sgelwick@seyfarth.com  
*ATTORNEY TO BE*  
*NOTICED*



V.

**Consolidated Defendant**

**ITV Direct, Inc.**

*A Massachusetts Corporation*

represented by **Christopher C. Larkin**

Seyfarth Shaw

Suite 3300

2029 Century Park E

Los Angeles, CA 90067-3063

310-277-7200

*LEAD ATTORNEY*

*ATTORNEY TO BE*

*NOTICED*

**Christopher F. Robertson**

(See above for address)

*LEAD ATTORNEY*

*ATTORNEY TO BE*

*NOTICED*

**Defendant**

**Healthy Solutions, LLC**

represented by **Becky V. Christensen**

(See above for address)

*LEAD ATTORNEY*

*ATTORNEY TO BE*

*NOTICED*

**Craig McLaughlin**

(See above for address)

*LEAD ATTORNEY*

*ATTORNEY TO BE*

*NOTICED*

**Dustin F. Hecker**

Posternak, Blankstein & Lund

Prudential Tower

800 Boylston Street  
Boston, MA 02199-8004  
617-973-6100  
Fax: 617-722-4927  
Email: dhecker@pbl.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Defendant**

**Health Solutions, Inc.**

represented by **Becky V. Christensen**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Craig McLaughlin**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Dustin F. Hecker**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Defendant**

**Alejandro Guerrero**  
*individually and as a Member*  
*of Healthy Solutions, LLC,*  
*and as Officer and Director of*  
*Health Solutions, Inc.*

represented by **Becky V. Christensen**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Craig McLaughlin**  
(See above for address)  
*LEAD ATTORNEY*



*ATTORNEY TO BE  
NOTICED*

**Dustin F. Hecker**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**Defendant**

**Michael Howell**  
*individually and as a Member  
of Healthy Solutions, LLC,  
and as Officer and Director of  
Health Solutions, Inc*

represented by **Becky V. Christensen**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**Craig McLaughlin**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**Dustin F. Hecker**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**Defendant**

**Greg Geremesz**  
*individually and as a Member  
of Healthy Solutions, LLC,  
and as Officer and Director of  
Health Solutions, Inc.*

represented by **Becky V. Christensen**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**Craig McLaughlin**  
(See above for address)  
*LEAD ATTORNEY*

*ATTORNEY TO BE  
NOTICED*

**Dustin F. Hecker**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**Intervenor Defendant**

**ITV Direct, Inc.**

represented by **Christopher F. Robertson**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**Peter S. Brooks**  
(See above for address)  
*ATTORNEY TO BE  
NOTICED*

**Susan W. Gelwick**  
(See above for address)  
*ATTORNEY TO BE  
NOTICED*

**Intervenor Defendant**

**Direct Fulfillment, LLC**

represented by **Peter S. Brooks**  
(See above for address)  
*ATTORNEY TO BE  
NOTICED*

**Susan W. Gelwick**  
(See above for address)  
*ATTORNEY TO BE  
NOTICED*

**Intervenor Defendant**

**Healthy Solutions, L.L.C.**  
*doing business as*  
Direct Business Concepts

represented by **Becky V. Christensen**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE**  
**NOTICED**

**Objector**

**Federal Trade Commission** represented by **John Andrew Singer**  
Federal Trade Commission  
600 Pennsylvania Ave, NW  
Washington, DC 20580  
202-326-3234  
Fax: 202-326-2477  
Email: jsinger@ftc.gov  
**LEAD ATTORNEY**  
**ATTORNEY TO BE**  
**NOTICED**

**Counter Claimant**

**Alejandro Guerrero**  
*individually and as a Member*  
*of Healthy Solutions, LLC,*  
*and as Officer and Director*  
*of Health Solutions, Inc.*

**Counter Claimant**

**Health Solutions, Inc.**

**Counter Claimant**

**Healthy Solutions, L.L.C.**

V.

**Counter Defendant**

**Direct Fulfillment, LLC**  
*a Massachusetts limited*  
*liability company*

represented by **Susan W. Gelwick**  
(See above for address)  
**ATTORNEY TO BE**  
**NOTICED**

**Counter Defendant****Does 1-10, inclusive****Counter Defendant****ITV Direct, Inc.**represented by **Christopher F. Robertson**

(See above for address)

*LEAD ATTORNEY**ATTORNEY TO BE**NOTICED***Susan W. Gelwick**

(See above for address)

*ATTORNEY TO BE**NOTICED*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
03/02/2004	<u>1</u>	COMPLAINT against all defendants Filing fee: \$ 150, receipt number 54210, filed by ITV Direct, Inc. (Abaid, Kim) (Entered: 03/03/2004)
03/02/2004	•	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Dein. (Abaid, Kim) (Entered: 03/03/2004)
04/08/2004	<u>3</u>	MOTION and Memorandum in Support for Intervention by Cappseals, Inc.. (Attachments: # <u>1</u> Certificate of Service)(Abaid, Kim) (Entered: 04/13/2004)
04/08/2004	•4	MOTION and MEMORANDUM for ex parte Temporary Restraining Order and Preliminary Injunction by Cappseals, Inc. (Abaid, Kim) (Entered: 04/13/2004)
04/08/2004	•	Judge Joseph L. Tauro : Electronic ORDER entered denying [4] Motion for Ex Parte TRO. (Abaid, Kim)



		(Entered: 04/13/2004)
04/08/2004	<u>5</u>	MOTION and Memorandum in support for Temporary Restraining Order and preliminary injunction and for expedited consideration of Cappseals' motion to intervene by Cappseals, Inc. (Abaid, Kim) (Entered: 04/13/2004)
04/08/2004	<u>6</u>	CORPORATE DISCLOSURE STATEMENT by Cappseals, Inc.. (Abaid, Kim) (Entered: 04/13/2004)
04/09/2004	<u>2</u>	NOTICE of Appearance by Katherine E. Perrelli, Peter S. Brooks, Christopher F. Robertson on behalf of ITV Direct, Inc. (Abaid, Kim) (Entered: 04/12/2004)
04/13/2004	<u>7</u>	Opposition re <u>5</u> MOTION for Temporary Restraining Order filed by ITV Direct, Inc., Direct Fulfillment, LLC. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit A to Affidavit of Robert Maihos (exhibit B hereto)# <u>4</u> Exhibit B of Affidavit of Robert Maihos (exhibit B hereto)# <u>5</u> Exhibit C of Affidavit of Robert Maihos (exhibit B hereto))(Brooks, Peter) (Entered: 04/13/2004)
04/14/2004	<u>8</u>	REPLY to Response to Motion re <u>5</u> MOTION for Temporary Restraining Order filed by Cappseals, Inc.. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C)(Kelly, Daniel) (Entered: 04/14/2004)
04/14/2004		Judge Joseph L. Tauro : Electronic ORDER entered granting <u>3</u> Motion to Intervene (Abaid, Kim) (Entered: 04/14/2004)
04/14/2004	<u>9</u>	Intervenor COMPLAINT , filed by Cappseals, Inc.. (Abaid, Kim) (Entered: 04/14/2004)
04/14/2004		Judge Joseph L. Tauro : Electronic ORDER entered granting in part and denying in part <u>5</u> Motion for TRO and Preliminary Injunction. (Abaid, Kim) (Entered: 04/14/2004)
04/14/2004	<u>10</u>	Judge Joseph L. Tauro : ORDER entered